

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 WILLIAM A. BUSS
Deputy Attorney General
4 State Bar No. 134958
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2039
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-452**

13 **CATHERINE ELIZABETH KELLER**
7 Shoreline Drive
14 Newport Coast, CA 92657

A C C U S A T I O N

15 **Registered Nursing License No. RN 748058**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 2. On or about March 25, 2009, the Board of Registered Nursing issued Registered
25 Nursing License Number RN 748058 to Catherine Elizabeth Keller (Respondent). The
26 Registered Nursing License was in full force and effect at all times relevant to the charges
27 brought herein and will expire on January 31, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), an expired license may be renewed at any time within eight years after expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states in pertinent part:

"Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

"(a) Considering the denial of a license by the board under Section 480; or

"(b) Considering suspension or revocation of a license under Section 490.

"Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states in pertinent part:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the

1 ground that the applicant or the licensee has been convicted of a crime substantially related to the
2 qualifications, functions, and duties of the licensee in question, the record of conviction of the
3 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
4 and the board may inquire into the circumstances surrounding the commission of the crime in
5 order to fix the degree of discipline or to determine if the conviction is substantially related to the
6 qualifications, functions, and duties of the licensee in question.

7 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
8 'registration.'"

9 9. Section 2761 of the Code states in pertinent part:

10 "The board may take disciplinary action against a certified or licensed nurse or deny an
11 application for a certificate or license for any of the following:

12 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

13 "....

14 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
15 functions, and duties of a registered nurse, in which event the record of the conviction shall be
16 conclusive evidence thereof."

17 "...."

18 10. Section 2762 of the Code states in pertinent part:

19 "In addition to other acts constituting unprofessional conduct within the meaning of this
20 chapter it is unprofessional conduct for a person licensed under this chapter to do any of the
21 following:

22 "....

23 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
24 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
25 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
26 himself or herself, any other person, or the public or to the extent that such use impairs his or her
27 ability to conduct with safety to the public the practice authorized by his or her license.

1 “(c) Be convicted of a criminal offense involving the prescription, consumption, or self-
2 administration of any of the substances described in subdivisions (a) and (b) of this section, or the
3 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
4 of this section, in which event the record of the conviction is conclusive evidence thereof.”

5 REGULATIONS

6 11. California Code of Regulations, title 16, section 1444, states in pertinent part:

7 “A conviction or act shall be considered to be substantially related to the qualifications,
8 functions or duties of a registered nurse if to a substantial degree it evidences the present or
9 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
10 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

11 “(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
12 subdivision (d) of Penal Code Section 11160.

13 “(b) Failure to comply with any mandatory reporting requirements.

14 “(c) Theft, dishonesty, fraud, or deceit.

15 “(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
16 Penal Code.”

17 12. California Code of Regulations, title 16, section 1445 states in pertinent part:

18 “....

19 “(b) When considering the suspension or revocation of a license on the grounds that a
20 registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such
21 person and his/her eligibility for a license will consider the following criteria:

22 “(1) Nature and severity of the act(s) or offense(s).

23 “(2) Total criminal record.

24 “(3) The time that has elapsed since commission of the act(s) or offense(s).

25 “(4) Whether the licensee has complied with any terms of parole, probation, restitution or
26 any other sanctions lawfully imposed against the licensee.

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1 “(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the
2 Penal Code.

3 “(6) Evidence, if any, of rehabilitation submitted by the licensee.”

4 **COST RECOVERY**

5 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licensee found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(July 8, 2009 Conviction for DUI on March 28, 2009)**

11 14. Respondent is subject to disciplinary action under sections 490 and 2761,
12 subdivision (f), in that on July 8, 2009, in the Superior Court, County of Orange, in the case
13 entitled *The People of the State of California v. Catherine Elizabeth Keller aka Catherine*
14 *Elizabeth Stebbins* in case number 09HM03539, Respondent was convicted for violating Vehicle
15 Code section 23152, subdivision (b), a misdemeanor, a crime substantially related to the
16 qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

17 a. On March 28, 2009, Respondent was driving her blue Honda Civic northbound in the
18 200 block of N. Coast Highway and was observed by a Laguna Beach Police Department
19 Sergeant to drive on the left side of the double yellow lines and into on-coming southbound
20 traffic. The Sergeant activated the overhead emergency vehicle lights to effect a traffic stop.
21 Upon making contact with Respondent, the Sergeant noticed that her speech was slow and
22 slurred, her eyes were bloodshot and watery, and an odor of an alcoholic beverage was emitting
23 from her breath and person. The Sergeant asked Respondent if she had consumed any alcoholic
24 beverages that evening and Respondent replied yes. Another officer arrived on the scene to
25 assist. Respondent was asked to exit her vehicle and was informed by the officer that he was
26 conducting a DUI investigation. Based upon the objective symptoms of alcohol intoxication
27 observed, as well as Respondent's performance on the Standardized Field Sobriety Tests, the
28 officer took Respondent into custody. Respondent agreed to a breath test and was transported to

1 Laguna Beach Police Department for the breath test. The two breath samples revealed a blood
2 alcohol content of .21%.

3 b. On July 8, 2009, Respondent's plea was accepted by the court and she was sentenced
4 to 3 years informal probation and ordered to violate no law, pay various fines and fees, not to
5 drive without a valid driver's license, proof of valid auto liability insurance or financial
6 responsibility as required by law, not to drive a motor vehicle with a measurable amount of
7 alcohol or drugs in blood, submit to a chemical test of blood, breath, or urine on demand, attend a
8 9 month Level 2 First Offender Alcohol Program, serve 2 days in Orange County Jail, credit for 2
9 days time served and to report to the Alcohol Liaison's Office.

10 SECOND CAUSE FOR DISCIPLINE

11 (Using Alcohol to an Extent Dangerous to Self and Others)

12 15. Respondent's license is subject to discipline under Code section 2762,
13 subdivision (b), in that Respondent used alcohol to an extent dangerous to herself and others as is
14 set forth in paragraph 14 above, which is incorporated here by this reference.

15 THIRD CAUSE FOR DISCIPLINE

16 (Criminal Conviction Involving the Consumption of Alcohol)

17 16. Respondent's license is subject to discipline under Code section 2762,
18 subdivision (c), in that Respondent was convicted of a criminal offense involving the
19 consumption of alcohol as is set forth in paragraph 14 above, which is incorporated here by this
20 reference.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nursing License Number RN 748058, issued to
25 Catherine Elizabeth Keller;

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1 2. Ordering Catherine Elizabeth Keller to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.

5
6 DATED: _____

3/18/10

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN

Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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